

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

EPA Region 5 Records Ctr.



258735

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NL INDUSTRIES, INC., et al.

Defendants,

and

CITY OF GRANITE CITY, ILLINOIS,  
LAFAYETTE H. HOCHULI, and  
DANIEL M. McDOWELL

Intervenor-Defendants.

Civil Action No.  
91 CV578-JLF

**DEFENDANT AT&T'S ANSWERS TO THE UNITED STATES'**  
**SUPERCEDING INTERROGATORIES AND REQUEST FOR**  
**PRODUCTION OF DOCUMENTS**

COMES NOW Defendant AT&T, by and through its attorneys, and objects and answers Plaintiff's Superceding Interrogatories and Request for Production of Documents as follows:

**OBJECTIONS TO PLAINTIFF'S**  
**DEFINITIONS AND INSTRUCTIONS**

AT&T objects to the following General Instructions contained in the United States' First Set of Interlocking Requests for Admission, Interrogatories, and Requests for Production of Documents to Generator Defendants, which are incorporated by reference in the United States' Superseding Interrogatories and Request for Production of Documents to Defendants. The paragraph numbers used below correspond to those used in Plaintiff's Instructions.

A., C. AT&T objects to the requirement that AT&T obtain information beyond that which is in AT&T's possession, custody or control.

F. AT&T objects to the description of these interrogatories and production requests as "continuing" and the requirement of further and supplemental responses to the extent the Instruction imposes requirements beyond Rule 26(e) of the Federal Rules of Civil Procedure.

O. AT&T objects to any requirement that it give an "estimate" of figures or dates.

#### **OBJECTIONS TO PLAINTIFF'S DEFINITIONS**

AT&T objects to the following definitions contained in the United States' First Set of Interlocking Requests for Admission, Interrogatories, and Requests for Production of Documents to Generator Defendants, which are incorporated by reference in the United States' Superseding Interrogatories and Request for Production of documents to Defendants. The number(s) preceding the following paragraphs correspond to specifically enumerated Definitions contained in Plaintiff's Definitions.

F., PP. AT&T objects to the definitions of "document", and "you" to the extent the definitions include information protected by the attorney-client privilege, the work product doctrine, or other applicable privileges, and to the extent they include information prepared in anticipation of litigation or trial preparation. AT&T further objects to these

definitions to the extent they include information or documentation not relevant to the issues of this lawsuit nor reasonably calculated to lead to the discovery of admissible evidence.

#### GENERAL OBJECTIONS

AT&T hereby incorporates each of the following General Objections into each response. These General Objections are a part of the response to each and every Interrogatory and are set forth here to avoid the duplication of restating each objection in each response. The General Objections may be specifically referred to in a response to certain Interrogatories for the purpose of clarity. However, the failure to specifically incorporate a General Objection should not be construed as a waiver of its General Objections.

1. Response Time. The United States claims that all answers to its Requests for Admission are due in 10 days. Rules 33 and 34 of the Federal Rules of Civil Procedure provide for 30 days. At the February 25, 1992 Status Conference, the Defendants agreed to answer previously propounded discovery relevant to Phase I as identified in the Case Management Order within 10 days. AT&T objects to the foreshortened response period to the extent that the United States' superseding discovery requests contain questions which are not identical to the United States' previously propounded discovery requests.

2. Privileges. AT&T objects to the Interrogatories and Requests for Production of Documents to the extent that they

call for disclosure of information protected by the attorney-client privilege, work-product, or other applicable privileges, and will not disclose such information.

3. Relevance. AT&T objects to the Interrogatories and Requests for Production of Documents to the extent that they seek information or documentation not relevant to the issues raised in this lawsuit and are not reasonably calculated to lead to the discovery of relevant and admissible information or documents. Nothing herein shall be construed as an admission by this Defendant respecting the admissibility or relevance of any fact or document, or as an admission of the truth or accuracy of any characterization description or definition contained in the Plaintiff's Interrogatories.

4. Information Within Plaintiff's Possession. AT&T objects to the Interrogatories and Requests for Production of Documents as unduly burdensome and oppressive insofar as they seek information already in Plaintiff's knowledge, possession, and/or control.

5. Premature. AT&T objects to the Interrogatories as being unduly burdensome and speculative to the extent that they request AT&T to exhaustively state the facts supporting their present contentions and speculate as to their future contentions prior to the completion of discovery. AT&T's search for documents and its investigation are ongoing. AT&T reserves its right to rely on any facts, documents or other evidence which may develop or may come to its attention at a later date.

6. Information Not In AT&T's Control. AT&T objects to the Interrogatories to the extent it is asked to speculate about or provide information not in its possession, custody or control.

#### ANSWERS TO INTERROGATORIES

1. Explain in detail the circumstances surrounding your knowledge that U.S. EPA issued its proposed plan for the Site on January 10, 1990, including the date when you first learned that the proposed plan for the Site would be issued by U.S. EPA on January 10, 1990, the date when you first learned that the proposed plan for the Site was issued by U.S. EPA, and identify all persons who knew of the above dates.

#### ANSWER:

AT&T incorporates by reference its General Objections. Without waiving these objections, AT&T further objects to this question as overbroad in that it requests identification of "all persons who knew of the above dates." AT&T will answer the interrogatory as to information in its possession. Prior to January 10, 1990, AT&T had no knowledge that the proposed plan would be issued on January 10, 1990 prior to its issuance.

On or after March 7, 1990 AT&T first learned that the proposed plan for the site was issued by U.S. EPA. That knowledge came in a phone conversation between Al Schlesinger of AT&T and Dennis Reis of the law firm of Sidley and Austin. AT&T did not know the date the proposed plan was issued until it was provided with the index to the administrative record attached to the Record of Decision.

2. Explain in detail the circumstances surrounding your receipt of U.S. EPA's proposed plan for the Site, including, the date when you first received a copy of the proposed plan for the Site, and identify all persons who delivered a copy of the proposed plan to you and all persons who received a copy of the proposed plan for you for the Site on that date.

ANSWER:

AT&T incorporates by reference its General Objections. Without waiving these objections, it further objects to this interrogatory in that it is vague as far as "all persons who received a copy of the proposed plan for you for the site on that date." Without waiving its objections, AT&T states that to its knowledge, it never received a copy of the proposed plan.

3. Identify each person whom you plan to call as a fact witness at trial on Phase I issues, and as to each state the subject matter of his or her testimony and the factual basis for that testimony.

ANSWER:

AT&T incorporates by reference its General Objections. Without waiving these objections, it further objects that this interrogatory is inappropriate discovery at this time. The information requested will be provided in accordance with the local rules of the Federal District of the Southern District of Illinois and the Federal Rules of Civil Procedure, consistent with the case management order.

4. Identify all meetings you attended and/or were invited to attend with U.S. EPA or any other PRP or defendant in this case concerning the Site through March 30, 1990, including the dates, places, times, subject matter and persons attending those meetings.

ANSWER:

AT&T incorporates by reference its General Objections. Without waiving these objections, AT&T states that it was invited to attend a meeting on December 18, 1989 of all PRPs organized by EPA. AT&T did attend that meeting and was represented by Dennis Reis for purposes of this meeting only. The meeting took place in Chicago and involved organization of the PRPs. Numerous parties were in attendance. U.S. EPA (Steven Siegel, Brad Bradley) discussed the CERCLA process in general and summarized site activity preceding the meeting. It described the alternatives set forth in the draft FS submitted by NL Industries and the alternative it intended to add. Agency representatives then laid out a tentative schedule for site-related functions. The pre-ROD comment period was expected to close in early February, the ROD was expected to be issued by March 31, 1990, and a special notice letter would probably be issued in February, 1990. The agency wanted to complete negotiations by June, 1990. The Region V FOIA officer was identified, and a procedure for obtaining documents related to potential liability was discussed. However, a final volumetric list had not yet been produced.

AT&T was also invited to attend a PRP meeting with EPA on February 26, 1990. AT&T did not attend any meeting with EPA on that date.

5. Identify all documents you copied, received or reviewed before March 30, 1990 from the documents maintained in the local Site files at the Granite City Library, the files at Region V, U.S. EPA, or any other document contained in the Administrative Record for the Site from any PRP or defendant, including the dates when those documents were copied, received or reviewed and from where.

ANSWER:

AT&T incorporates by reference its General Objections. Without waiving these objections, AT&T states that it did not receive, copy, or review any documents maintained in the local site files, the files of Region V, or any other document contained in the Administrative Record prior to March 30, 1990 other than those included in EPA's 104(e) notice letter sent to AT&T on November 28, 1989.

6. Do you contend that the remedy selected by U.S. EPA for the Site, and embodied in the ROD, is arbitrary and capricious or otherwise not in accordance with law. If so, state each and every fact or other item of information relating to or supporting your contention and cite with specificity all portions of the Administrative Record, the NCP, and any other law that supports your contention.



**ANSWER:**

AT&T incorporates by reference its General Objections. Without waiving these objections, AT&T states that the remedy selected by U.S. EPA for the site and embodied in the ROD is arbitrary and capricious or otherwise not in accordance with law. This contention is based on the Administrative Record and comments submitted concerning the proposed plan and the ROD. This answer will be supplemented at the conclusion of discovery.

7. Do you contend that the Administrative Record is incomplete or does not support the ROD? If so, state each and every fact or other item of information relating to or supporting your contention, and identify specifically each portion of the Administrative Record that is incomplete or does not support the remedy and identify all documents or facts that you contend should be included in the Administrative Record.

**ANSWER:**

AT&T incorporates by reference its General Objections. Without waiving these objections, AT&T states that the Administrative Record is incomplete and does not support the ROD. This answer is based in part on the administrative record and comments submitted concerning the proposed plan and the ROD. It will be supplemented at the conclusion of discovery.

**REQUEST FOR PRODUCTION OF DOCUMENTS**

1. Produce all documents not in the Administrative Record identified in, referred to, or used in any way in responding to the foregoing Interrogatories and Requests for Admission.

**RESPONSE:**

Documents relevant to this request which are not protected by the attorney client privilege and work product immunity will be produced.

Respectfully submitted,

COBURN, CROFT & PUTZELL

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Attorneys for Defendant AT&T

## CERTIFICATION

I certify that the foregoing statements made in the annexed responses (excluding objections) to Plaintiff's Superseding Interrogatories and Requests for Production of Documents to AT&T are true to the best of my knowledge, information and belief. This certification is made by me in my capacity as Assistant Secretary of American Telephone and Telegraph Company (AT&T). The information contained in the said Responses is not within my personal knowledge, but was obtained at the direction, and under the supervision of AT&T's Counsel of Record. I am aware that if any of the foregoing statements are wilfully false, I am subject to punishment.

Charles DiGangi  
Assistant Secretary

**Dated**

STATE OF NEW JERSEY                   )  
  )  
COUNTY OF SOMMERSET                  ) SS

Sworn and subscribed before me this 10th day of April, 1992.

Notary Public

**My Commission Expires:**

**DEBORAH A. REDING**  
**NOTARY PUBLIC OF NEW JERSEY**  
 My Commission Expires Oct. 17, 1995

Certificate of Service

I hereby certify that a copy of the foregoing was mailed,  
postage prepaid this 13 day of April, 1992 to:

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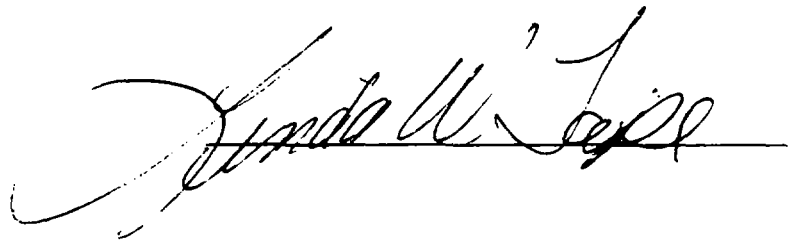
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A handwritten signature in cursive script, appearing to read "Linda W. Lipp", written over a horizontal line.